

**REMARKS**

Applicants confirm the election without traverse of group 1.

**Art rejections**

The art rejections are respectfully traversed.

Since the reference is complex, Applicants will confine their remarks to those portions of the reference cited by the Examiner, except as otherwise indicated. Applicants make no representation as to the contents of other portions of the reference.

Applicants respectfully submit that the statement by the Examiner entitled "Examiner's Note" on page 4 of the office action -- to the effect that the Applicants are responsible for improving the quality of the rejection by trying to find things in the reference that the Examiner did not find -- is contrary to the provisions of 37 CFR 1.104 (c) (ii). Applicants would like to respectfully remind the Examiner that the burden of proof is on the Examiner to prove that the invention is obvious or anticipated, not on the Applicants to prove that it is not obvious or anticipated.

The Examiner has also grouped together the rejection of a number of claims, without distinguishing which element of which claim is to be found where in the reference. Applicants respectfully submit that this also fails to satisfy 37 CFR 1.104 (c) (ii).

Any of the Examiner's rejections and/or points of argument that are not addressed below would appear to be moot in view of the following. Nevertheless, Applicants reserve the right to respond to those rejections and arguments and to advance additional arguments at a later date. No arguments are waived and none of the Examiner's statements are conceded. In particular,

**REMARKS**

any "official notice" taken by the Examiner is respectfully traversed, and the Examiner is requested to produce art supporting such official notice.

**Claim 1**

Claim 1 recites transmission of a data packet associated with a digital product. The data packet includes a watermark.

The Examiner purports to find this in Stefik reference. First he refers to figure 2 of the reference, which says nothing at all about a data packet or a watermark, nor does the text that accompanies that figure. The abstract and summary sections imply of Stefik imply that the watermark is embedded in the content. The Examiner admits that figures 10 and 11 of the reference teach an embedded watermark. Applicants accordingly respectfully submit that the Examiner has not made a *prima facie* case that the reference teaches or suggests putting a watermark in a data packet associated with content, as opposed to embedding the watermark in the content itself.

Moreover, the specification of the present application teaches specific functional advantages in the peer-to-peer marketing context of putting the watermark in the associated data packet, rather than or in addition to embedding the watermark in the content. Applicants are unable to find that the reference teaches or suggests such functional advantages.

**Dependent claims**

Applicants respectfully submit that the dependent claims recite additional patentable distinctions over the reference. Applicants are unable to discern where the Examiner purports to

**REMARKS**

find these limitations in the reference in light of the Examiner's sweeping generalizations about the reference.

For instance, Claim 2 recites that the watermark is updated to include the userID of the registered user who transferred the packet. The reference, on the other hand, shows at Fig. 10 a watermark with a user identification of a user who printed a packet, not of a user who transferred the packet.

Applicants further respectfully submit that, at the bottom of page 5 of the office action, the Examiner mischaracterizes Applicants' discussion of the prior art. The general keeping of records relating to multilevel marketing models fails to teach or suggest the invention as claimed. Moreover, the language used by the Examiner "tracking of marketing components and events" to characterize the reference does not appear in the claims to which this paragraph applies -- so far as Applicants can tell. Accordingly, Applicants are unable to discern what the Examiner is getting at here.

**Claim 4**

The Examiner's "official notice" is respectfully traversed.

Moreover, the claim recites a data packet that includes a product content file and a preview file, with the watermark in the preview file.

The fact that the prior art shows watermarks and preview files fails to teach or suggest the particular combination recited here.

## REMARKS

Claim 10

This claim recites, *inter alia*, that the preview file is not encrypted. Against this claim, the Examiner cites figure 15 of the reference. Applicants have looked at this figure. While it does appear to show that a product is encrypted, Applicants do not see anything about a preview file there.

Claim 12

This is an independent claim with entirely different recitations from those of claim 1. *Inter alia*, it recites updating history data stored within a watermark every time a product is transferred.

The Examiner rejects this claim as if it were no different from the previous claims. Applicants respectfully submit that this fails to satisfy 37 C.F.R. 1.104(c)(ii).

Moreover, while the reference at Fig. 10 shows one user ID in a watermark, Applicants fail to see where it teaches or suggests that history data would be updated every time the product is transferred.

Applicants accordingly respectfully submit that the Examiner has accordingly failed to make a *prima facie* case against claim 12.

Applicants respectfully submit that the new claims recite additional patentable distinctions over the reference.

## REMARKS

*Please charge any fees other than the issue fee to deposit account 14-1270. Please credit any overpayments to the same account.*

Applicants respectfully submit that they have addressed each issue raised by the Examiner --- except for any that were skipped as moot --- and that the application is accordingly in condition for allowance. Allowance is therefore respectfully requested.

<b>CERTIFICATE OF MAILING</b>	
I hereby certify that this correspondence is being deposited this date with the United States Postal Service as first class mail in an envelope addressed to	
Mail Stop _____ Commissioner for Patents P.O. Box 1450 Alexandria VA 22314-1450	
On _____ (date)	
By _____ (signature)	

Respectfully submitted,

By *A. E. Barschall*  
Anne E. Barschall, Reg. No. 31,089  
Tel. no. 914-332-1019  
Fax no. 914-332-7719  
Date of printing: June 18, 2005